

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7137 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KALVIR THRO' KANTILAL

VITTHALDAS PATEL

Versus

STATE OF GUJARAT

Appearance:

MR JC VYAS for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

MR SAMIR U SHAH for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/10/98

ORAL JUDGEMENT

Rule. Shri K.T. Dave, learned AGP, waives service of rule on behalf of respondent no.1 and Mr. S.U. Shah, learned advocate waives service of rule on behalf of respondent no.2.

2. By way of this petition, the petitioner has made grievance about non-payment of the petitioner's

legitimate dues in the sum of Rs. 7,00,000/- as per the particulars set out in the petition by the respondent no.2. On behalf of the respondent no.2 one Dilip Mehta, Manager of Gujarat Pipavav Port Ltd., has filed affidavit-in-reply, inter-alia stating at page no.7 ground (e) that a sum of Rs.5 lakhs only is refundable and the claim of Rs.7 lakhs is not refundable to the petitioner. It is also contended that the petitioner would not be entitled to interest. I also ascertained from the learned advocate appearing for the respondent no.2 that there is no dispute with regard to the amount of Rs.5 lakhs being refundable without interest. The respondent no.2 being the instrumentality of State will not be justified in not refunding this undisputed amount. Hence, bearing in mind the facts of the case, the respondent no.2 will refund the amount of Rs.5 lakhs without interest within three months from the date of receipt of this direction. Writ to issue only on the petitioner paying the court fees on the sum of Rs.5 lakhs after deduction of the court fees to be refunded if any.

3. Rule is made absolute only in the aforesaid terms with no order as to costs.

syed*